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FISCAL IMPACT STATEMENT

LS 7098

BILL NUMBER: SB 493

NOTE PREPARED: Feb 12, 2009

BILL AMENDED: Feb 12, 2009

SUBJECT: Handgun License Revocation Procedures.

FIRST AUTHOR: Sen. Waltz

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill establishes a two-track procedure for the revocation or suspension of handgun licenses. The bill provides that, under the revocation track, the Superintendent of the State Police Department (SOSPD) may immediately suspend or revoke a person's handgun license based on: (1) the commission of certain crimes; (2) the fact that the person's license is already suspended; or (3) the person's age if the person is underage; if the SOSPD has documented evidence supporting these facts.

The bill authorizes judicial review of the SOSPD's determination under the revocation track, and provides that the SOSPD has the burden of proof in a judicial review proceeding. The bill provides that, under the suspension track, the SOSPD may suspend a person's handgun license for a 90 day period (or longer if the person requests a continuance) if: (1) the SOSPD has documented evidence that gives rise to a reasonable belief that the person has a propensity for violent or emotionally unstable conduct; or (2) the SOSPD has other reasonable grounds to believe that the person's license should be suspended.

The bill requires that the evidence relied upon by the SOSPD be based on scientific, medical, technical, or other specialized evidence and be of sufficient reliability to be admissible under the Indiana rules of evidence. The bill specifies that the person's handgun license is automatically reinstated at the expiration of the suspension period unless the prosecuting attorney, before the expiration of the suspension period, files a petition to suspend or revoke the person's license, and requires the petition to contain a statement by a physician that, based on an examination or other information given to the physician, the person may have a propensity for violent or emotionally unstable conduct, or other reasonable grounds exist to suspend or revoke the person's license.

The bill permits a person whose license is suspended or revoked to appeal or otherwise challenge the

suspension or revocation. The bill provides that a person who knowingly or intentionally fails to return a license promptly after written notice of suspension or revocation commits a Class A misdemeanor. The bill makes other changes and conforming amendments. The bill repeals a superseded provision.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Summary-* This provision could increase the workload of the Indiana State Police (ISP) to investigate, gather, and present evidence required of this provision. The ISP and the Attorney General (AG) could attend additional court hearings for the revocation or suspension of a handgun license. The workload of the AG may increase if the AG must represent the ISP in more judicial review proceedings. The bill does not provide an appropriation. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

In the case of revocation or suspension, the ISP would have to provide evidence to the court. Evidence would only have to be presented for revocation if the person whose license was revoked appealed to a court for judicial review. With suspension, the ISP would have to appeal to the court directly with evidence in support of suspension. The evidence would have to be based on scientific, medical, technical, or other specialized evidence. The evidence would have to be admissible under Indiana evidence rules.

Background Information- The following table illustrates handgun license hearing statistics from recent years.

State Police Handgun License Hearings (2006-2008).			
	2006	2007	2008
Total Hearings	857	844	743
Suspension Hearings	790	779	647
Appeal Hearings	67	65	98
Appeal Denied	47	47	67
License Suspended	41	8	24
License Revoked	718	716	575
License Issued Upon Appeal	20	18	29

The ISP reverted \$3.2 M from the state General Fund and dedicated funds at the close of FY 2008.

Explanation of State Revenues: *Criminal Penalty Provision-* A person failing to return a handgun license would commit a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and

the DNA sample processing fee (\$1) are deposited into the state General Fund.

Judicial Review– If more persons appealed to courts for review of a handgun license revocation, court fees to the state General Fund for civil proceedings would increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund when a case is filed in a court of record. Additional fees would be assessed as listed above, except for the DNA sample fee.

Explanation of Local Expenditures: Courts- Circuit or superior courts may see an increase in workload if additional handgun cases are filed by the state.

Prosecutor- When suspension of a license expires, county prosecutors would be able to request the court to further suspend or revoke a license.

Criminal Penalty Provision- A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Criminal Penalty Provision-* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

Judicial Review– The \$100 filing fee for a civil case would be distributed in the same manner as criminal penalty fees to local governments.

State Agencies Affected: ISP; AG.

Local Agencies Affected: Trial courts, local law enforcement agencies, county prosecutor.

Information Sources: Captain Sherry Beck, ISP; Indiana State Budget Agency: *General and Rainy Day Fund Summaries, June 30, 2008.*

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